

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

Payam Ghaderi,

NO. C 04-02925 JW

Plaintiff,

**ORDER FOLLOWING HEARING RE:  
ORDER TO SHOW CAUSE FOR  
FAILURE TO PROSECUTE**

v.

Roxy Hariri, et al.,

Defendants.

Payam Ghaderi ("Plaintiff"), in *pro se*, brings this action against Santa Clara Deputy District Attorney Roxy Hariri and Hariri's unnamed supervisor ("Defendants"), for alleged violations of 42 U.S.C. § 1983. On December 20, 2006, the parties attended a Settlement Conference, but did not settle. (See Docket Item No. 107.) On December 28, 2006, Defendants filed their Motion for Summary Judgment and noticed it for a hearing on February 5, 2007. (See Docket Item No. 109.) On its own motion, the Court continued the hearing to March 19, 2007. (See Docket Item No. 118.)

However, on March 13, 2007, Magistrate Judge Trumbull issued an Order Granting Defendant Roxy Hariri's Motion to Withdraw Admissions. (See Docket Item No. 131.) Among other things, Judge Trumbull granted Plaintiff limited relief from the discovery cut-off deadline to allow Plaintiff time to depose Defendant Hariri and non-party witness Mendoza. The order did not specify a deadline for these additional depositions but directed that they be completed "without undue delay." In light of Judge Trumbull's extension of the discovery cut-off date, and the uncertainty with respect to the schedule, the Court ordered off-calendar Defendants' Motion for


1 Summary Judgment as premature. (See Docket Item No. 132.) The Court stated that Defendants  
2 may refile and renotice their motion once the additional discovery is completed.

3 Since no action had been taken by either party since March 14, 2007, the Court, *sua sponte*,  
4 issued an order to show cause why the case should not be dismissed. (See Docket Item No. 134.)  
5 The Court conducted a hearing on March 17, 2008. At the hearing and in his written response to the  
6 order, Plaintiff alleged judicial misconduct by the Court in relation to the continuance of the hearing  
7 on Defendants' motion for summary judgment. (Certification in Response to the Order to Show  
8 Cause at 4-5, hereafter, "Response," Docket Item No. 135.) Plaintiff stated that he had filed a  
9 motion to disqualify the Court based on bias and conflict of interests. (Response at 8.) Initially,  
10 Plaintiff represented that he would not complete discovery until the motion for disqualification was  
11 adjudicated. (Id.) However, at the hearing, Plaintiff represented that he would complete discovery  
12 within sixty days.

13 In light of Plaintiff's representations, the Court orders as follows:

- 14 (1) The Court sets **April 21, 2008 at 9:00 a.m.** for a hearing on Plaintiff's anticipated  
15 motion to disqualify the Court. At the hearing, Plaintiff indicated that he had filed  
16 the motion; however, as of today's date, there is no such filing on the docket. Rather,  
17 Plaintiff has only stated in his Response to the Order to Show Cause that he intends  
18 to file the motion. Accordingly, Plaintiff shall file this motion in accordance with the  
19 Civil Local Rules of Court.
- 20 (2) Plaintiff shall complete the depositions previously allowed by Judge Trumbull on or  
21 before **May 19, 2008**.
- 22 (3) The parties shall appear on **June 23, 2008 at 11:00 a.m.** for a Preliminary Pretrial  
23 Conference. In accordance with the Civil Local Rules, the parties shall meet and  
24 confer and submit a Joint a Pretrial Conference Statement ten on or before **June 13,**  
25 **2008.**

26 Dated: March 18, 2008

  
\_\_\_\_\_  
JAMES WARE  
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 John Lewis Winchester john.winchester@cco.sccgov.org  
3 Michael L. Rossi michael.rossi@cco.co.scl.ca.us  
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5 Payam Ghaderi  
6 Post Office Box 9045  
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8  
9 **Dated: March 18, 2008**

**Richard W. Wieking, Clerk**

10  
11 **By: /s/ JW Chambers**  
12 **Elizabeth Garcia**  
13 **Courtroom Deputy**  
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